

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

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Commonwealth Edison Company )

Petition for Approval of a Revised )

Decommissioning Expense Adjustment )

Rider )

CHIEF CLERK'S OFFICE

Docket No. 00-0361

REPLY BRIEF OF THE  
ENVIRONMENTAL LAW & POLICY CENTER

The Environmental Law & Policy Center ("ELPC"), by counsel, submits this reply brief in the above-captioned proceeding.

INTRODUCTION

ELPC argued in its initial brief that if the Commission authorizes any decommissioning collection by Edison for Genco, it should condition such collection upon Edison agreeing to guarantee that adequate funds will be available for radiological and non-radiological decommissioning of each of its nuclear plants. Arguments by the Staff of the Illinois Commerce Commission and IIEC opposing funding of non-radiological decommissioning demonstrate the importance of such guarantees and are briefly discussed in this reply brief.

**I. EDISON AND GENCO SHOULD NOT BE PERMITTED TO USE FUNDS INTENDED FOR NON-RADIOLOGICAL DECOMMISSIONING TO REDUCE THEIR FUNDING OF RADIOLOGICAL DECOMMISSIONING.**

Staff of the Illinois Commerce Commission makes a convincing argument that "any funds provided now for site restoration would only help Genco meet its NRC funding requirements for radiological decommissioning. The reason is that Genco, or any other licensee, is only required by the NRC to fund the trusts to satisfy radiological decommissioning (Staff Ex. 2, p. 6). Therefore, Staff believes Genco will only fund the trusts to that level and no higher." Initial Brief of the Staff of the Illinois Commerce Commission at 12-13. Similarly, IIEC argues that:

Inasmuch as it is the Genco that will determine whether or not it makes any contributions over and above the NRC requirements, there is little reason to believe that the Genco will fund the trusts in such a way that surplus funds are likely to be available. Therefore, a commitment made by a ComEd employee today about an obligation on the Genco that may or may not come about decades into the future is of negligible value to ratepayers today. (Tr. 732-733)

IIEC Initial Brief at 25.

The Staff and IIEC arguments do not lead to the conclusion that Edison should not be permitted to recover funds for non-radiological decommissioning. Rather, the arguments highlight the importance of guarantees that money collected for non-radiological decommissioning will be available for that purpose. ELPC recommends that the Commission condition the collection of any funds for non-radiological decommissioning on enforceable guarantees by Edison and Genco that all money collected for non-radiological decommissioning will be set-aside for that purpose and will not be used for any other purpose. It is essential that Genco be a co-guarantor, since

Genco will be holding the decommissioning funds and will be responsible for the decommissioning.


If the Commission authorizes any decommissioning collection by Edison for Genco, it should condition such collection upon Edison and Genco agreeing to guarantee that adequate funds for non-radiological decommissioning will be available for each of Edison's nuclear plants.

## II. CONCLUSION

If the Commission authorizes any decommissioning collection by Edison for Genco, it should condition such collection upon Edison and Genco agreeing to guarantee that adequate funds for radiological and non-radiological decommissioning will be available for each of Edison's nuclear plants.

Respectfully submitted,

Environmental Law and Policy Center

By:   
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October 5, 2000

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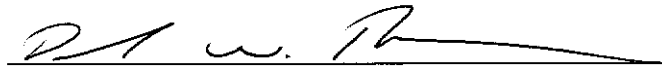
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**NOTICE OF FILING**

PLEASE TAKE NOTICE that on this date, October 5, 2000, I filed with the Chief Clerk of the Illinois Commerce Commission, 527 East Capitol Avenue, Springfield, Illinois 62794, the original and eleven copies of the enclosed *Reply Brief of the Environmental Law and Policy Center* in the above-captioned proceeding by overnight mail.

  
Daniel W. Rosenblum

**CERTIFICATE OF SERVICE**

I, DANIEL W. ROSENBLUM, certify that I served the above Notice of Filing together with a true and correct copy of the document referred to therein upon all active parties on the Service List by depositing a copy in a properly addressed, sealed envelope with the U.S. Post Office, Chicago, Illinois, with proper postage prepaid on October 5, 2000 and all parties on the service list were also served by e-mail on that same day.

  
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